

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

BENNIE RAY BROWN,

CV F 05-0167 WMW HC

Petitioner,

MEMORANDUM OPINION AND ORDER
ADOPTING FINDINGS AND
RECOMMENDATIONS RE RESPONDENT'S
MOTION TO DISMISS

v.

[Doc. 8, 19]

PEOPLE OF THE STATE OF CALIFORNIA,

Respondent.

Petitioner is proceeding with a petition for writ of habeas corpus pursuant to 28 U.S.C. Section 2254. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 72-302.

On February 6, 2007, the undersigned entered findings and recommendations in this case. On February 8, 2007, Petitioner consented to the jurisdiction of the United States Magistrate Judge pursuant to Title 28 U.S.C. § 636(c)(1). Because Respondent had consented earlier on July 13, 2006, this case was then reassigned to the undersigned for all purposes.

This court now adopts the findings and recommendations previously entered on February 6, 2007.

Accordingly, IT IS HEREBY ORDERED as follows:

- 1) Respondent's motion to dismiss is GRANTED;
- 2) This petition is DISMISSED as moot without prejudice to Petitioner's right to file a civil rights action pursuant to 28 U.S.C. Section 1983; and
- 3) The Clerk of the Court is directed to enter judgment for Respondent and to close this case. IT IS SO ORDERED.

Mmkd34 Dated: March 28, 2007 /s/ William M. Wunderlich
UNITED STATES MAGISTRATE JUDGE